

AMENDED IN SENATE AUGUST 17, 2005

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JULY 1, 2005

SENATE BILL

No. 1015

Introduced by Senator Romero

(Principal coauthor: Assembly Member Parra)

(Coauthors: Senators Ackerman, Kehoe, and Poochigian)

(Coauthor: Assembly Member La Suer)

February 22, 2005

An act to add ~~Section 12016.1 to the Government Code, to add Section 11105.06 to the Penal Code, and to amend and repeal Section 12016.1 of the Government Code, to add and repeal Section 11105.06 of the Penal Code, and to amend, repeal, and add~~ Section 5066 of the Vehicle Code, and to amend Items 0690-001-0001, 0690-010-0890, 0690-010-3034, and 0690-101-0890 of, and to add Items 0685-001-0890, 0685-001-3034, 0685-101-0890, and 0685-101-3034 to, Section 2.00 of Chapter 38 of the Statutes of 2005, relating to homeland security, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Romero. Office of Homeland Security.

(1) Existing law requires the Governor to appoint a Director of Homeland Security to coordinate homeland security activities in the state, and to appoint a deputy director of homeland security to serve at the pleasure of the director. Existing law sets forth certain duties of an Office of Homeland Security in state government.

Existing law appropriates \$33,262,000 from the Federal Trust Fund to the Office of Emergency Services for the Office of Homeland

Security, \$100,000 from the Antiterrorism Fund to the Office of Emergency Services for the Office of Homeland Security, and \$343,424,000 from the Federal Trust Fund to the Office of Emergency Services for plans and preparedness, of which \$328,000,000 is intended for support of the Office of Homeland Security.

This bill would, upon order of the Director of Finance, transfer the unencumbered balances of the \$33,262,000 and \$100,000 appropriations from the Office of Emergency Services directly to the Office of Homeland Security for support of that office, and the unencumbered balance of the \$343,424,000 appropriation that is intended for support of the Office of Homeland Security from the Office of Emergency Services directly to the Office of Homeland Security for local assistance. The bill would also appropriate \$1,777,000 from the Antiterrorism Fund to the Office of Homeland Security for local assistance.

(2) Existing law authorizes the Attorney General to furnish specified summary criminal history information to certain peace officers of the state, subject to specified conditions.

This bill would, *until January 1, 2007*, require the Attorney General to furnish state summary criminal history information to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security for these purposes.

(3) The California Public Records Act specifies that certain security, investigatory, and other information of certain law enforcement entities is not subject to disclosure.

This bill would, *until January 1, 2007*, specify that the Office of Homeland Security is a law enforcement organization as required for receipt by employees of the office of confidential intelligence information pursuant to these provisions.

(4) Existing law requires that $\frac{1}{2}$ of certain revenues derived from the issuance, renewal, transfer, and substitution of California memorial license plates and deposited into the Antiterrorism Fund, be allocated by the Controller, upon appropriation by the Legislature, to the Office of Criminal Justice Planning to be used solely for antiterrorism purposes.

This bill instead would, *until January 1, 2007*, require that $\frac{1}{2}$ of these funds be allocated by the Controller, upon appropriation by the Legislature, to the Office of Homeland Security for these purposes.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The Office of Homeland Security was established in
4 February 2003 by executive order to coordinate the state's
5 antiterrorism activities.

6 (2) In February of 2005, the Legislative Analyst's Office
7 recommended that the Legislature provide statutory authority for
8 the Office of Homeland Security. The Legislative Analyst's
9 Office analysis points out funding delays and the lack of a
10 unified strategic approach to homeland security issues.

11 (3) The Legislature recognizes, in light of the events of
12 September 11, 2001, and the more recent London bombings, the
13 pressing need for a unified approach to homeland security within
14 the state.

15 (b) Therefore, the Legislature intends to restructure the Office
16 of Homeland Security during the next legislative session but to
17 give the existing Office of Homeland Security responsibility of
18 administering its own budget appropriations commencing with
19 this fiscal year.

20 SEC. 2. Section 12016.1 is added to the Government Code, to
21 read:

22 12016.1. (a) The Office of Homeland Security shall be
23 considered a law enforcement organization as required for receipt
24 of confidential intelligence information pursuant to subdivision
25 (f) of Section 6254 by persons employed within the Office of
26 Homeland Security whose duties and responsibilities require the
27 authority to access criminal history and other intelligence
28 information and who have been cleared to do so by both the state
29 Department of Justice and the United States Department of
30 Homeland Security.

1 **(b)** *This section shall remain in effect only until January 1,*
2 *2007, and as of that date is repealed, unless a later enacted*
3 *statute, that is enacted before January 1, 2007, deletes or extends*
4 *that date.*

5 SEC. 3. Section 11105.06 is added to the Penal Code, to read:

6 11105.06. **(a)** In addition to furnishing state summary
7 criminal history information to the persons and entities set forth
8 in Section 11105 and subject to the requirements and conditions
9 set forth in that section, the Attorney General shall furnish state
10 summary criminal history information to persons employed
11 within the Office of Homeland Security whose duties and
12 responsibilities require the authority to access criminal history
13 and other intelligence information and who have been cleared to
14 do so by both the State Department of Justice and the United
15 States Department of Homeland Security. These persons shall be
16 furnished with that information on the same basis as persons
17 designated in paragraph (2) of subdivision (c) of Section 11105.

18 **(b)** *This section shall remain in effect only until January 1,*
19 *2007, and as of that date is repealed, unless a later enacted*
20 *statute, that is enacted before January 1, 2007, deletes or extends*
21 *that date.*

22 SEC. 4. Section 5066 of the Vehicle Code is amended to
23 read:

24 5066. **(a)** The department shall, in conjunction with the
25 California Highway Patrol, design and make available for
26 issuance pursuant to this article the California memorial license
27 plate. Notwithstanding Section 5060, the California memorial
28 license plate may be issued in a combination of numbers or
29 letters, or both, as requested by the applicant for the plates. Any
30 person described in Section 5101 may, upon payment of the
31 additional fees set forth in subdivision (b), apply for and be
32 issued a set of California memorial license plates.

33 **(b)** In addition to the regular fees for an original registration or
34 renewal of registration, the following additional fees shall be
35 paid for the issuance, renewal, retention, or transfer of the
36 California memorial license plates authorized pursuant to this
37 section:

38 (1) For the original issuance of the plates, fifty dollars (\$50).

39 (2) For a renewal of registration of the plates or retention of
40 the plates, if renewal is not required, forty dollars (\$40).

1 (3) For transfer of the plates to another vehicle, fifteen dollars
2 (\$15).

3 (4) For each substitute replacement plate, thirty-five dollars
4 (\$35).

5 (5) In addition, for the issuance of an environmental license
6 plate, as defined in Section 5103, the additional fees prescribed
7 in Sections 5106 and 5108 shall be deposited proportionately in
8 the funds described in subdivision (c).

9 (c) The department shall deposit the additional revenue
10 derived from the issuance, renewal, transfer, and substitution of
11 California memorial license plates as follows:

12 (1) Eighty-five percent in the Antiterrorism Fund, which is
13 hereby created in the General Fund.

14 (A) Upon appropriation by the Legislature, one-half of the
15 money in the fund shall be allocated by the Controller to the
16 Office of Homeland Security to be used solely for antiterrorism
17 activities. The office may not use more than 5 percent of the
18 funds appropriated to it for administrative purposes.

19 (B) Upon appropriation by the Legislature in the annual
20 Budget Act or in another statute, one-half of the money in the
21 fund shall be used solely for antiterrorism activities.

22 (2) Fifteen percent in the California Memorial Scholarship
23 Fund, which is hereby established in the General Fund. Moneys
24 deposited in this fund shall be administered by the Scholarshare
25 Investment Board, and shall be available, upon appropriation in
26 the annual Budget Act or in another statute, for distribution or
27 encumbrance by the board pursuant to Article 21.5 (commencing
28 with Section 70010) of Chapter 2 of Part 42 of the Education
29 Code.

30 (d) The department shall deduct its costs to administer, but not
31 to develop, the California memorial license plate program. The
32 department may utilize an amount of money, not to exceed fifty
33 thousand dollars (\$50,000) annually, derived from the issuance,
34 renewal, transfer, and substitution of California memorial license
35 plates for the continued promotion of the California memorial
36 license plate program of this section.

37 (e) "Antiterrorism activities" means activities related to the
38 prevention, detection, and emergency response to terrorism that
39 are undertaken by state and local law enforcement, fire
40 protection, and public health agencies. The funds provided for

1 these activities, to the extent that funds are available, shall be
2 used exclusively for purposes directly related to fighting
3 terrorism. Eligible activities include, but are not limited to, hiring
4 support staff to perform administrative tasks, hiring and training
5 additional law enforcement, fire protection, and public health
6 personnel, response training for existing and additional law
7 enforcement, fire protection, and public health personnel, and
8 hazardous materials and other equipment expenditures.

9 ~~(f) Beginning January 1, 2007, and each January 1 thereafter,~~
10 ~~the department shall determine the number of currently~~
11 ~~outstanding and valid California memorial license plates. If that~~
12 ~~number is less than 7,500 in any year, then the department shall~~
13 ~~no longer issue or replace those plates.~~

14 *(f) This section shall remain in effect only until January 1,*
15 *2007, and as of that date is repealed, unless a later enacted*
16 *statute, that is enacted before January 1, 2007, deletes or extends*
17 *that date.*

18 SEC. 5. Section 5066 is added to the Vehicle Code, to read:

19 5066. (a) *The department shall, in conjunction with the*
20 *California Highway Patrol, design and make available for*
21 *issuance pursuant to this article the California memorial license*
22 *plate. Notwithstanding Section 5060, the California memorial*
23 *license plate may be issued in a combination of numbers or*
24 *letters, or both, as requested by the applicant for the plates. Any*
25 *person described in Section 5101 may, upon payment of the*
26 *additional fees set forth in subdivision (b), apply for and be*
27 *issued a set of California memorial license plates.*

28 (b) *In addition to the regular fees for an original registration*
29 *or renewal of registration, the following additional fees shall be*
30 *paid for the issuance, renewal, retention, or transfer of the*
31 *California memorial license plates authorized pursuant to this*
32 *section:*

33 (1) *For the original issuance of the plates, fifty dollars (\$50).*

34 (2) *For a renewal of registration of the plates or retention of*
35 *the plates, if renewal is not required, forty dollars (\$40).*

36 (3) *For transfer of the plates to another vehicle, fifteen dollars*
37 *(\$15).*

38 (4) *For each substitute replacement plate, thirty-five dollars*
39 *(\$35).*

1 (5) *In addition, for the issuance of an environmental license*
2 *plate, as defined in Section 5103, the additional fees prescribed*
3 *in Sections 5106 and 5108 shall be deposited proportionately in*
4 *the funds described in subdivision (c).*

5 (c) *The department shall deposit the additional revenue*
6 *derived from the issuance, renewal, transfer, and substitution of*
7 *California memorial license plates as follows:*

8 (1) *Eighty-five percent in the Antiterrorism Fund, which is*
9 *hereby created in the General Fund.*

10 (A) *Upon appropriation by the Legislature, one-half of the*
11 *money in the fund shall be allocated by the Controller to the*
12 *Office of Criminal Justice Planning to be used solely for*
13 *antiterrorism activities. The office may not use more than 5*
14 *percent of the funds appropriated to it for administrative*
15 *purposes.*

16 (B) *Upon appropriation by the Legislature in the annual*
17 *Budget Act or in another statute, one-half of the money in the*
18 *fund shall be used solely for antiterrorism activities.*

19 (2) *Fifteen percent in the California Memorial Scholarship*
20 *Fund, which is hereby established in the General Fund. Moneys*
21 *deposited in this fund shall be administered by the Scholarshare*
22 *Investment Board, and shall be available, upon appropriation in*
23 *the annual Budget Act or in another statute, for distribution or*
24 *encumbrance by the board pursuant to Article 21.5 (commencing*
25 *with Section 70010) of Chapter 2 of Part 42 of the Education*
26 *Code.*

27 (d) *The department shall deduct its costs to administer, but not*
28 *to develop, the California memorial license plate program. The*
29 *department may utilize an amount of money, not to exceed fifty*
30 *thousand dollars (\$50,000) annually, derived from the issuance,*
31 *renewal, transfer, and substitution of California memorial*
32 *license plates for the continued promotion of the California*
33 *memorial license plate program of this section.*

34 (e) *“Antiterrorism activities” means activities related to the*
35 *prevention, detection, and emergency response to terrorism that*
36 *are undertaken by state and local law enforcement, fire*
37 *protection, and public health agencies. The funds provided for*
38 *these activities, to the extent that funds are available, shall be*
39 *used exclusively for purposes directly related to fighting*
40 *terrorism. Eligible activities include, but are not limited to,*

1 hiring support staff to perform administrative tasks, hiring and
2 training additional law enforcement, fire protection, and public
3 health personnel, response training for existing and additional
4 law enforcement, fire protection, and public health personnel,
5 and hazardous materials and other equipment expenditures.

6 (f) Beginning January 1, 2007, and each January 1 thereafter,
7 the department shall determine the number of currently
8 outstanding and valid California memorial license plates. If that
9 number is less than 7,500 in any year, then the department shall
10 no longer issue or replace those plates.

11 (g) This section shall become operative on January 1, 2007.

12 ~~SEC. 5.~~

13 SEC. 6. Item 0685-001-0890 is added to Section 2.00 of
14 Chapter 38 of the Statutes of 2005, to read:

15
16 0685-001-0890—For support of Office of Homeland Security,
17 payable from the Federal Trust Fund 0

18 Provisions:

- 19 1. It is the intent of the Legislature to formally restruc-
20 ture the Office of Homeland Security by statute in the
21 next session. However, beginning in the 2005-06 fis-
22 cal year, the existing Office of Homeland Security
23 shall be responsible for administering this budget ap-
24 propriation.
- 25 2. Upon order of the Director of Finance, funds may be
26 transferred from this item to Item 0685-101-0890 to
27 provide additional local assistance funding consistent
28 with federal program guidelines.

29
30 ~~SEC. 6.~~

31 SEC. 7. Item 0685-001-3034 is added to Section 2.00 of
32 Chapter 38 of the Statutes of 2005, to read:

33
34 0685-001-3034—For support of Office of Homeland Security,
35 payable from the Antiterrorism Fund 0

36 Provisions:

- 1 1. It is the intent of the Legislature to formally restruc-
2 ture the Office of Homeland Security by statute in the
3 next session. However, beginning in the 2005-06 fis-
4 cal year, the existing Office of Homeland Security
5 shall be responsible for administering this budget ap-
6 propriation.

7
8 ~~SEC. 7.~~

9 SEC. 8. Item 0685-101-0890 is added to Section 2.00 of
10 Chapter 38 of the Statutes of 2005, to read:

11
12 0685-101-0890—For local assistance, Office of Homeland Se-
13 curity, payable from the Federal Trust Fund 0
14 Provisions:

- 15 1. It is the intent of the Legislature to formally restructure
16 the Office of Homeland Security in statute in the next
17 session. However, beginning in the 2005-06 fiscal
18 year, the existing Office of Homeland Security shall
19 be responsible for administering this budget appropri-
20 ation.

21
22 ~~SEC. 8.~~

23 SEC. 9. Item 0685-101-3034 is added to Section 2.00 of
24 Chapter 38 of the Statutes of 2005, to read:

25
26 0685-101-3034—For local assistance, Office of Homeland Se-
27 curity, payable from the Antiterrorism Fund 1,777,000
28 Provisions:

- 29 1. It is the intent of the Legislature to formally restructure
30 the Office of Homeland Security by statute in the
31 next session. However, beginning in the 2005-06 fis-
32 cal year, the existing Office of Homeland Security
33 shall be responsible for administering this budget ap-
34 propriation.

35
36 ~~SEC. 9.~~

37 SEC. 10. Item 0690-001-0001 of Section 2.00 of Chapter 38
38 of the Statutes of 2005 is amended to read:

1	0690-001-0001—For support of Office of Emergency Ser-	
2	vices	36,105,000
3	Schedule:	
4	(1) 15-Mutual Aid Response	21,116,000
5	(2) 35-Plans and Preparedness	17,654,000
6	(3) 45-Disaster Assistance	23,620,000
7	(4) 55.01-Administration and Execu-	
8	tive.....	7,173,000
9	(5) 55.02-Distributed Administration	
10	and Executive	-6,267,000
11	(6) 65-Office of Homeland Security.....	33,262,000
12	(7) 97.20.001-Unallocated	
13	Reduction	-614,000
14	(8) Reimbursements.....	-2,651,000
15	(9) Amount payable from the Unified	
16	Program Account (Item 0690-001-	
17	0028)	-654,000
18	(10) Amount payable from the Nuclear	
19	Planning Assessment Special Ac-	
20	count (Item 0690-001-0029)	-935,000
21	(11) Amount payable from the Federal	
22	Trust Fund	
23	(Item 0690-001-0890)	-22,337,000
24	(12) Amount payable from the Federal	
25	Trust Fund	
26	(Item 0690-010-0890)	-33,262,000
27	Provisions:	
28	1. Funds appropriated in this item may be reduced by	
29	the Director of Finance, after giving notice to the	
30	Chairperson of the Joint Legislative Budget Commit-	
31	tee, by the amount of federal funds made available	
32	for the purposes of this item in excess of the federal	
33	funds scheduled in Item 0690-001-0890.	
34	2. The Office of Emergency Services shall charge tu-	
35	ition for all training offered through the California	
36	Specialized Training Institute.	
37	3. Upon the approval by the Department of Finance, the	
38	Controller shall transfer such funds as are necessary	
39	between this item and Item 0690-101-0890.	

- 1 4. The Office of Homeland Security, in collaboration
2 with the State Department of Health Services, shall
3 report to the Chairperson of the Joint Legislative
4 Budget Committee, and the chairperson of the fiscal
5 and policy committees of each house of the Legisla-
6 ture on or before February 1, 2006, a statewide
7 strategic plan for the use of federal homeland securi-
8 ty and bioterrorism funds by all departments and lo-
9 cal jurisdictions. The plan shall include the state's
10 goals and objectives for improving the state's level
11 of preparedness for a terrorism event, which (a) is
12 based on an assessment of the state's level of pre-
13 paredness and (b) reflects a coordination of prepared-
14 ness activities at the state and local level. It is not
15 the intent of the Legislature to require the Office of
16 Homeland Security or the State Department of
17 Health Services to disclose or include sensitive or
18 classified information in the strategic plan.
- 19 5. It is the intent of the Legislature that the funding prior-
20 ities for federal homeland security funds are: (a) en-
21 hancing information sharing between local, state,
22 and federal public safety agencies; (b) identifying
23 and protecting critical infrastructure and key assets
24 to deter terrorists; (c) enhancing coordination of
25 state agencies' homeland security activities; (d) im-
26 plementing the state's homeland security strategy;
27 and (e) implementing interoperable communications
28 for public safety agencies.
- 29 6. It is the intent of the Legislature that the Office of
30 Emergency Services and the California Department
31 of Forestry and Fire Protection, with assistance from
32 the Department of General Services, collaborate to
33 the extent possible in the purchasing of fire trucks.
- 34 7. Upon order of the Director of Finance, this item may
35 be adjusted to reflect any transfer made pursuant to
36 Provision 1 of Item 0690-010-0890.

37
38 ~~SEC. 10.~~

39 *SEC. 11.* Item 0690-010-0890 of Section 2.00 of Chapter 38
40 of the Statutes of 2005 is amended to read:

0690-010-0890—For support of Office of Emergency Services
for the Office of Homeland Security, for payment to Item
0690-001-0001, payable from the Federal Trust Fund 33,262,000

Provisions:

1. The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-0890.

~~SEC. 11.~~

SEC. 12. Item 0690-010-3034 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:

0690-010-3034—For support of Office of Emergency Services
for the Office of Homeland Security 100,000

Provisions:

1. The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-3034.

~~SEC. 12.~~

SEC. 13. Item 0690-101-0890 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:

0690-101-0890—For local assistance, Office of Emergency
Services, payable from the Federal Trust Fund 901,150,000

Schedule:

- (1) 35-Plans and Preparedness 343,424,000
- (2) 45-Disaster Assistance 557,726,000

Provisions:

1. Any federal funds that may become available in addition to the funds appropriated in this item for Program 45-Disaster Assistance are exempt from Section 28.00 of this act.

- 1 2. Of the funds appropriated in Schedule (1) of this
2 item, \$328,000,000 is intended for support of the
3 Office of Homeland Security. Upon order of the Di-
4 rector of Finance, the unencumbered balance of the
5 Office of Homeland Security funds appropriated by
6 this item shall be transferred to Item 0685-101-
7 0890.

8
9 ~~SEC. 13.~~

10 *SEC. 14.* This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety
12 within the meaning of Article IV of the Constitution and shall go
13 into immediate effect. The facts constituting the necessity are:

14 In order for the Office of Homeland Security to adequately
15 administer the grants, properly reimburse local agencies for their
16 homeland security expenditures, and receive all information
17 necessary to evaluate threats and prepare training, it is necessary
18 that this act take effect immediately.